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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/214,406	10/12/1999	John J. Malcolm		8775

7590 05/23/2005  
Leary & Associates  
Suite 330  
505 West Olive Avenue  
Sunnyvale, CA 94086

EXAMINER
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DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/214,406

Applicant(s)

MALCOLM ET AL.

Examiner

Cassandra Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/28/98.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10-12, 19-23 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-12, 19, 20, 22, 23 and 31-36 is/are rejected.
- 7) ☒ Claim(s) 21 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 10, 12, 22, 31, 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer, U. S. Patent 553,963.

3. Palmer teaches book cover comprising a cover having a front panel 3 and a back panel 4, a support means 7 attached to the back panel for supporting book cover, and at least one calendar page (not labeled). The front panel has an opening 5 and the calendar page is attached to front panel 3 behind the opening such that the front panel covers the peripheral edges of the calendar page. The central portion of the calendar page is visible.

4. With respect to claim 10, the calendar corresponds to the flat sheet like member.

5. With respect to claim 22, Palmer teaches an easel type support member 7.

6. Claims 1, 2, 3, 4, 10, 12, 31-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuller, U. S. Patent 1,441,273.

7. Fuller teaches a calendar holder comprising a cover having a front panel 39 and a back panel 28, a box support means 10, 12, 14, 17 attached to the back panel for supporting cover, and at least one calendar page 48. The front panel has an opening 42 and the calendar page 48 is attached to front panel behind the opening such that the

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front panel covers the peripheral edges of the calendar page. The central portion of the calendar page is visible.

8. With respect to claim 4, 33 and 34, Fuller teaches a plurality or pad of calendar pages.

9. With respect to claim 10, the calendar corresponds to the flat sheet like member.

10. With respect to claims 12 and 36, the front panel 39 with opening 42 corresponds to the display means.

11. Claims 31, 32, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang, U. S. Patent 4,794,713.

12. Yang teaches a combination album and picture frame comprising a cover having a front panel 11 and a back panel 12, a support means 121 attached to the back panel for supporting album and picture frame, and at least one sheet 2. The front panel has a window 111 and the sheets are attached to front panel behind the opening such that the front panel covers the peripheral edges of the sheets. The central portions of the sheets are visible.

13. The sheet are adapted to hold pictures

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang, U. S. Patent 4,794,713. Since the applicant does not disclose that having the front panel/cover made of paper, paperboard, plastic, metal, glass, wood, etc solves any stated problem or is for any particular purpose, it appears that constructing the front panel/cover of any suitable material as taught by Yang would perform equally well in retaining and displaying sheets.

***Allowable Subject Matter***

16. Claims 21 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
Art Unit 3611

CD  
May 15, 2005